



Appeal Decision

by **Ken McEntee**

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 April 2020

Appeal ref: APP/Z2830/L/19/1200348

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by South Northants Council.
- Planning permission was granted on 21 March 2019.
- A Liability Notice served on 21 March 2019.
- A Demand Notice was served on 17 October 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].

Summary of decision: The appeal is dismissed and the surcharge is upheld.

Procedural matters

1. I note that the appellant is questioning the imposition of the CIL charge as well as the surcharge. For the avoidance of doubt, I have no powers to quash the CIL charge and can only determine the appeal in relation to the surcharge for the alleged breach of failing to submit a Commencement Notice before starting works on the chargeable development.

Reasons for the decision

2. The appeal is made under Regulation 117(1)(a) - that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant contends that she did submit a CN and has provided a copy dated 24 March 2019, but the Council insist they have no record of having received it. However, irrespective of whether or not the Council received the CN, they would not have been able to accept it as valid in any event as it did not state an intended commencement date as required by Regulation 67(2)(c) - "April 2019" does not meet this requirement, and neither did it identify the Liability Notice as required by Regulation 67(2)(d). Therefore, [REDACTED]

[REDACTED] on the evidence before me I have no option to conclude that the alleged breach occurred. The appeal fails accordingly.

3. It appears clear that the appellant is not satisfied with the level service she has received from the Council in this matter. If the appellant is unhappy with the Council's conduct in this matter or their adopted procedures, she may wish to make a complaint through their established complaints process in the context of local government accountability.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharge [REDACTED] is upheld.

K McEntee